

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION**

FREDERICK J. COLOSIMO,

*Plaintiff,*

v.

ANDREW SAUL, in his official capacity as the  
Commissioner of Social Security,

*Defendant.*

No. 1:18-cv-00170-KDB

**ORDER**

Upon consideration of the parties' Stipulation, filed on November 12, 2020, the Court being fully advised and noting the concurrence of the parties; in view of the class certification decision and injunction in *Ely v. Saul*, No. CV-18-0557-TUC-BGM, 2020 WL 2744138 (D. Ariz. May 27, 2020); in view of the parties' agreement that Plaintiff Colosimo and his late husband would have been married for more than nine months but for unconstitutional state laws prohibiting same-sex couples from marriage; and in light of the parties' desire to avoid unnecessary litigation and the delay that would accompany further administrative proceedings:

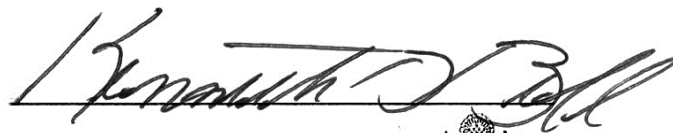
**IT IS HEREBY ORDERED** that Defendant will promptly assess whether Plaintiff met all eligibility criteria listed in 20 C.F.R. § 404.335 other than the duration-of-marriage requirement at the time of his original application for survivor's benefits, and, provided that he met these other criteria, Defendant will restore Mr. Colosimo to the position he would have been in but for the application of the duration-of-marriage requirement to deny his claim, including paying past due and prospective survivor's benefits to Plaintiff, while the *Ely* litigation remains ongoing.

Pursuant to the Court's previous order, ECF No. 29, this case remains **STAYED** until the conclusion of all proceedings in *Ely*, including the pending appeal.

**IT IS FURTHER ORDERED** that the next joint status report shall be submitted by the parties on or before February 25, 2021 and every three months after until *Ely* is resolved by the Ninth Circuit. Otherwise, the parties shall submit a joint status report within ten days after the Ninth Circuit's decision in *Ely* to provide a further update regarding the status of the *Ely* litigation and its implications for the present case.

**SO ORDERED.**

Signed: November 12, 2020

A handwritten signature in black ink, appearing to read "Kenneth D. Bell", written over a horizontal line.

Kenneth D. Bell  
United States District Judge

